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9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
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12

13 **LANCE BOLAND, ET AL.,**

14 Plaintiffs,

15 v.  
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17 **ROB BONTA, IN HIS OFFICIAL  
CAPACITY AS ATTORNEY GENERAL OF  
18 THE STATE OF CALIFORNIA, ET AL.,**

19 Defendants.  
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Case No. 8:22-cv-01421-CJC-ADS

**DEFENDANT'S OBJECTIONS TO  
DECLARATION OF BRIAN R.  
MARVEL SUPPORTING  
PLAINTIFFS' FIRST CLOSING  
BRIEF FOLLOWING  
EVIDENTIARY HEARING ON  
PLAINTIFFS' MOTION FOR A  
PRELIMINARY INJUNCTION**

Courtroom: 9B  
Judge: Hon. Cormac J. Carney  
Trial Date: None set  
Action Filed: August 1, 2022

1 Defendant California Attorney General Rob Bonta hereby submits the  
2 following objections to the Declaration of Brian R. Marvel, president of the Peace  
3 Officers Research Association of California (“PORAC”), ECF No. 57-2, which was  
4 filed in support of Plaintiffs’ first closing brief following the preliminary injunction  
5 hearing.

6 1. Defendant objects to the **entirety** of the declaration because Plaintiffs  
7 failed to make Mr. Marvel available at the evidentiary hearing for cross-  
8 examination. There is no explanation in Mr. Marvel’s declaration for why he could  
9 not have testified at the hearing, and Plaintiffs were capable of doing so given that  
10 they made six other witnesses available for testimony both in person and via video  
11 conference. *See* ECF Nos. 41, 47.

12 2. Defendant objects to the **entirety** of the declaration because it constitutes  
13 improper opinion evidence. Fed. R. Evid. 701. Mr. Marvel is not testifying as an  
14 expert, and the statements in his declaration are not “helpful to . . . determining a  
15 fact in issue.” Fed. R. Evid. 701(b). As the drafters of Rule 701 noted,  
16 “meaningless assertions which amount to little more than choosing up sides” should  
17 be excluded for lack of helpfulness. Fed. R. Evid. 701 advisory committee’s note.  
18 Mr. Marvel acknowledges that the declaration’s sole purpose is merely to take  
19 Plaintiffs’ side in this case when he states in paragraph 18 that “PORAC would like  
20 the Court to be aware of its position” because it failed to file an amicus brief.

21 3. Defendant objects to **paragraphs 4, 5, 6, and 15** of the declaration for  
22 lack of relevance, because Mr. Marvel’s and PORAC’s views on the Unsafe  
23 Handgun Act (“UHA”) are not “fact[s] [] of consequence in determining the  
24 action.” Fed. R. Evid. 401(b).

25 4. Defendant objects to **paragraph 5** of the declaration for lack of  
26 foundation. Fed. R. Evid. 602. The declaration does not establish Mr. Marvel’s  
27 basis for opining on the effectiveness of the UHA’s chamber load indicator,  
28 magazine disconnect mechanism, and microstamping requirements.

1           5. Defendant objects to **lines 17 through 19 of paragraph 7** of the  
2 declaration for lack of foundation. Fed. R. Evid. 602. The declaration does not  
3 establish Mr. Marvel’s basis for opining that “many officers are issued 4th or 5th-  
4 generation Glock pistols.”

5           6. Defendant objects to **paragraphs 8 and 9** of the declaration for lack of  
6 relevance, because Mr. Marvel’s and PORAC’s views on the Second Amendment  
7 are not “fact[s] [] of consequence in determining the action.” Fed. R. Evid. 401(b).

8           7. Defendant objects to **lines 3 through 6 of paragraph 9** of the declaration  
9 for lack of foundation. Fed. R. Evid. 602. The declaration does not establish Mr.  
10 Marvel’s basis for opining that off-Roster handguns are “commonly issued to  
11 approximately 77,000 peace officers while they are on-duty in California.”

12           8. Defendant objects to **paragraphs 11, 12, 13, and 14** of the declaration  
13 for lack of relevance, because Mr. Marvel’s and PORAC’s position on Senate Bill  
14 377—a bill currently pending in the Legislature that is not before this Court and not  
15 relevant to the chamber load indicator, magazine disconnect mechanism, or  
16 microstamping requirements at issue here—are not “fact[s] [] of consequence in  
17 determining the action.” Fed. R. Evid. 401(b).

1 Dated: March 10, 2023

Respectfully submitted,

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